

REFERENCE TITLE: tribal courts

State of Arizona
Senate
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SB 1529

Introduced by
Senators Hale, Mitchell: Arzberger, Brotherton, Cheuvront, Garcia,
Soltero; Representative Rios P

AN ACT

AMENDING SECTION 12-136, ARIZONA REVISED STATUTES; RELATING TO TRIBAL COURTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-136, Arizona Revised Statutes, is amended to
3 read:

4 12-136. Indian tribal courts: involuntary commitment orders

5 A. Notwithstanding any law to the contrary, an involuntary commitment
6 order of an Arizona tribal court ~~filed with the clerk of the superior court~~
~~shall be recognized and is enforceable by any court of record in this state,~~
~~subject to the same procedures, defenses and proceedings for reopening,~~
~~vacating or staying as a judgment of the court~~ SHALL BE ENFORCEABLE IN THE
10 SAME MANNER AS IF ISSUED BY THE SUPERIOR COURT IF IT CONTAINS THE FOLLOWING
11 FINDINGS:

12 1. THE LEGAL AND FACTUAL BASIS OF THE TRIBAL COURT JURISDICTION OVER
13 THE CIVIL COMMITMENT PROCEEDINGS AND OVER THE PROPOSED PATIENT.

14 2. THE PROPOSED PATIENT RECEIVED NOTICE OF THE CIVIL COMMITMENT
15 PROCEEDINGS AND THE ALLEGATIONS REGARDING THE PATIENT'S MENTAL CONDITION AND
16 HAD THE OPPORTUNITY TO BE HEARD WITH THE ASSISTANCE OF A PERSON RECOGNIZED BY
17 THE TRIBAL COURT AS COMPETENT TO REPRESENT THE PROPOSED PATIENT.

18 3. BASED ON THE DIAGNOSIS OF A LICENSED PHYSICIAN, THE PROPOSED
19 PATIENT SUFFERS FROM A MENTAL DISORDER AS DEFINED BY SECTION 36-501 THAT
20 RENDERS THE PROPOSED PATIENT A DANGER TO SELF, A DANGER TO OTHERS,
21 PERSISTENTLY OR ACUTELY DISABLED OR GRAVELY DISABLED.

22 4. THE TREATMENT ORDERED IS THE LEAST RESTRICTIVE TREATMENT THAT MEETS
23 THE NEEDS OF THE PROPOSED PATIENT AND THE PROPOSED PATIENT IS UNABLE OR
24 UNWILLING VOLUNTARILY TO RECEIVE THE TREATMENT.

25 5. THE STATE, THROUGH THE ATTORNEY GENERAL, WAS GIVEN NOTICE OF THE
26 FILING OF THE PETITION FOR COMMITMENT ORDER AND A COPY OF THE PETITION BEFORE
27 ISSUANCE OF THE ORDER BY THE TRIBAL COURT.

28 B. AN INVOLUNTARY COMMITMENT ORDER ISSUED BY A TRIBAL COURT IS SUBJECT
29 TO THE SAME PROCEDURES, DEFENSES AND PROCEEDINGS FOR REOPENING, VACATING OR
30 STAYING AS A JUDGMENT OF THE SUPERIOR COURT. The Arizona supreme court may
31 adopt rules regarding ~~recognition~~ REOPENING, VACATING OR STAYING of tribal
32 court involuntary commitment orders. ~~The state, through the attorney~~
~~general, shall be given notice of the filing at the time the commitment order~~
~~is filed and shall have five days from receipt of the written notice of the~~
~~filing of the order to appear as a party and respond.~~ A patient WHO IS
36 committed to a state mental health treatment facility under this section
~~shall be~~ IS subject to the jurisdiction of the state.

38 B. C. Decisions regarding discharge or release of a patient WHO IS
39 committed pursuant to subsection A OF THIS SECTION shall be made by the
40 facility providing involuntary treatment. Ten days ~~prior to~~ BEFORE discharge
41 or release, the state mental health treatment facility shall notify the
42 tribal court ~~which~~ THAT issued the involuntary commitment order of the
43 facility's intention to discharge or release a patient. Any necessary
44 outpatient follow-up and transportation of the patient to the jurisdiction of
45 the tribal court, within the time set forth in the notice, shall be provided
46 for in an intergovernmental agreement between the tribe and the department of
47 health services.